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10/579,378	02/21/2007	Wijbe Dijkstra	0470-061494	8238

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EXAMINER

HAUTH, GALEN H

ART UNIT	PAPER NUMBER
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1742

MAIL DATE	DELIVERY MODE
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10/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,378	Applicant(s) DIJKSTRA ET AL.	
	Examiner GALEN HAUTH	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) 25-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Acknowledgment is made to applicant's amendment of claims 16 and 24.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 16-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 16 has been amended to recite that the part is clamped by said first bearer and "a clamping edge of said cutting die" on the side of the larger part. The specification teaches as shown in Fig. 2 and 3 that the larger part is clamped by the first bearer (11) and a clamping plate (13), but does not teach that the edge of the cutting die (12) clamps the part to the first bearer. Thus the limitation of the larger part being clamped by said first bearer and a clamping edge of said cutting die is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors were in possession of the claimed invention. Claims 17-24 depend upon claim 16 and are therefor also rejected.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the limitation "a second bearer" while being dependent upon claim 16 which established a second bearer initially. It is unclear as to whether this bearer is the same second bearer or an additional bearer to the two bearers established by claim 16.

Claim Objections

6. Claims 25-30 are objected to because of the following informalities: Claims 25-30 are identified as previously presented while they should be identified as Withdrawn. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronson (PN 1904268) in view of Mojonnier (PN 3461756).
 - a. With regards to claim 16, Bronson teaches a method for punching a formed article from a web (punching a part from a larger part) in which the cutting die moves towards the larger part and removes the article from the web (pg 3 col 1 ln 45-50, Fig. 1). Bronson teaches that the material is a fibrous material (pg 1 col 1 ln 1-4). Bronson does not teach a clamp or bearer for the larger part.
 - b. Mojonnier teaches a method for trimming formed articles from a web in which the web and preform are clamped between a first bearer (trim die 51) and a clamping edge (91) of said cutting die (interpreted as the entire upper shaping member) and trimmed to remove the article from the web (col 1 ln 14-20, Fig. 1-12). Mojonnier teaches the use of a second bearer (88) opposite the clamping edge of the outer shaping member (cutting die) to transport the punched out part upstream from the punchline (Fig. 4, 6, col 5 ln 68-col 6 ln 18). Mojonnier teaches that the bearers prevent distortion of the preform (col 5 ln 1-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the shaping member and clamping apparatus of Mojonnier in the method of Bronson, because both relate to the trimming of formed articles from a larger web presenting a reasonable expectation of success, and doing so prevents distortion of the preform.

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- c. With regards to claim 17, Mojonnier teaches that the cutting die produces the punched out part (Fig. 1-3, the punched out part is produced when the cutting die trims the article from the web).
- d. With regards to claim 18, Mojonnier teaches using a three dimensional bearer (Fig. 7-10).
- e. With regards to claim 19, Mojonnier teaches the ability to trim along a line that lies outside of the plane of the web producing a spout flange (Fig. 7-9, col 6 ln 53-75). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the out of plane cutting method of Mojonnier in the method of Bronson, because both relate to the trimming of preformed articles from a larger web presenting a reasonable expectation of success, and doing so allows for an increased number of shapes capable of being produced.
- f. With regards to claim 20, Mojonnier teaches punching openings in the shaped part (col 7 ln 10-15).
- g. With regards to claims 21 and 22, Bronson teaches using a fibrous web material (pg 1 col 1 ln 1-5).
- h. With regards to claim 23, Bronson teaches producing the surrounding sheet from the mold onto a roll (pg 1 col 2 ln 75-78).
- i. With regards to claim 24, Mojonnier teaches using a top (88) and bottom (53) bearer for clamping and punching the part (Fig. 1-3).

Response to Arguments

10. Applicant's arguments filed 07/28/2010 have been fully considered but they are not persuasive.

a. With regards to applicant's argument that Bronson does not teach a molded fiber material, this argument is not persuasive as Bronson teaches shaping of a fibrous sheet material with pressure and heat (col 1 ln 15-19, Fig. 1-4).

b. With regards to applicant's argument that neither reference teaches the use of a second bearer to transport the part, this argument is not persuasive as Mojonnier teaches the use of a second bearer opposite the clamp to transport the part upstream from the larger part as described in the rejection of claim 16 above. Applicant's recites Fig. 2 of the specification for support. The second bearer of Fig. 2 is being interpreted as the element 12 as this is opposite the clamping edge 13. It is also noted that the part is not transported in Fig. 2, but rather is transported in Fig. 3 by element 12 as Fig. 2 demonstrates a partially closed mold position with a stationary part (4).

c. With regards to applicant's argument that the clamping blocks of Mojonnier are separate from the cutting block die, this argument is not persuasive. The clamps (91) of Mojonnier are interpreted under the broadest reasonable interpretation as a part of the upper shaping member.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GALEN HAUTH whose telephone number is (571)270-5516. The examiner can normally be reached on Monday to Thursday 8:30am-5:00pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571)272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GHH/

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1742